

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID ROBERTS,
Plaintiff,

v.

MONTEREY COUNTY JAIL, et al.,
Defendants.

Case No. [20-cv-06113-SI](#)

ORDER OF DISMISSAL

Re: Dkt. Nos. 11, 16, 17

On January 25, 2021, the court ordered plaintiff, David Nathaniel Roberts, to show cause within 28 days why this action should not be dismissed under 28 U.S.C. § 1915(g), which provides that a prisoner may not bring a civil action *in forma pauperis* under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). The order identified five prior dismissals that appeared to count under § 1915(g) and ordered plaintiff to show cause why pauper status should not be denied and the action should not be dismissed. The order further stated that plaintiff also could avoid dismissal by paying the filing fee by the deadline.

Plaintiff did not respond to the order to show cause, and the deadline by which to do so has passed.

Each of the five earlier dismissals identified in the order to show cause counts as a dismissal for § 1915(g) purposes. Plaintiff has not paid the filing fee, has not shown that any of the prior dismissals could not be counted under § 1915(g), does not appear to have been under imminent danger of serious physical injury at the time he filed this action, and has not otherwise shown cause

1 why this action could not be dismissed. For the foregoing reasons, plaintiff's *in forma pauperis*
2 application is DENIED. Docket Nos. 11, 16, 17. This action is DISMISSED for failure to pay the
3 filing fee. The dismissal is without prejudice to plaintiff asserting his claims in a new complaint for
4 which he pays the full filing fee at the time he files that action.

5 The clerk shall close the file.

6 **IT IS SO ORDERED.**

7 Dated: April 26, 2021

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9 SUSAN ILLSTON
10 United States District Judge
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